



[Billing Code 3290-F7]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR-2016-0025]

Public Comments and Hearing Regarding Request to Reinstate Action Taken in Connection with the European Union's Measures Concerning Meat and Meat Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of public hearing and request for comments.

SUMMARY: The interagency Section 301 Committee is holding a public hearing and seeking public comments to assist the United States Trade Representative (Trade Representative) in connection with the request of representatives of the U.S. beef industry to reinstate action against the European Union (EU) pursuant to Section 306(c) of the 1974 Trade Act, as amended (19 U.S.C. 2416(c)). Prior to reinstating trade action, the Office of the United States Trade Representative (USTR) will conduct a review of the effectiveness of such an action, and of other actions that could be taken (including actions against other products), in achieving the objectives of Section 301 of this title (19 U.S.C. 2411); and the effects of such actions on the United States economy, including consumers.

DATES: The schedule and deadlines are as follows:

Monday, January 30, 2017 at 11:59 pm: Deadline for interested persons to submit written comments and requests to appear at the hearing, which must include a summary of testimony.

Wednesday, February 15, 2017: The Section 301 Committee will convene a public hearing in Rooms 1 and 2, 1724 F Street NW, Washington DC 20508, beginning at 9:30 am. If necessary, the hearing may continue on the next business day.

Wednesday, February 22, 2017 at 11:59 pm: Deadline for submission of post-hearing rebuttal comments.

ADDRESSES: All written comments, requests to appear at the hearing, hearing summaries, and rebuttal comments must be in English and submitted electronically via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments in section E below.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments or participating in the public hearing, contact Gwendolyn Diggs at (202) 395-3150. For questions on the EU-Beef matter, contact Roger Wentzel, Deputy Assistant U.S. Trade Representative for Agricultural Affairs, (202) 395-6127, or David Weiner, Deputy Assistant U.S. Trade Representative for Europe, (202) 395-3320. Direct all other questions regarding this notice to William Busis, Associate General Counsel and Chair of the Section 301 Committee (202) 395-3150, or Katherine Linton, Assistant General Counsel, at (202) 395-3150.

SUPPLEMENTARY INFORMATION:

A. The EU-Beef Matter

The EU bans the import of beef and beef products produced from animals to which any of six hormones have been administered for growth-promotion purposes. The six hormones at issue are estradiol 17-b, testosterone, progesterone, zeranol, trenbolone acetate (TBA) and melengestrol acetate (MGA). The effect of the EU ban is to prohibit the import of all but specially-produced U.S. beef and beef products. In February 1998, the WTO Dispute Settlement Body (DSB) in the EU-Beef case found that the ban was inconsistent with the obligations of the European Communities (now the EU) under the WTO Agreement. In July 1999, a WTO arbitrator determined that the EU import ban on U.S. beef and beef products had nullified or impaired U.S. benefits under the WTO Agreement in the amount of \$116.8 million each year. On July 26, 1999, the DSB authorized the United States to suspend the application to the EU, and member States thereof, of WTO tariff concessions and related obligations covering trade in an amount of \$116.8 million per year. Pursuant to that authorization, USTR announced a list of EU products that would be subject to a 100 percent rate of duty effective with respect to products entered, or withdrawn from warehouse, for consumption on or after July 29, 1999. See 64 FR 40638.

On November 6, 2008, the inter-agency Section 301 committee requested public comments on a list of alternative products under consideration for the imposition of increased duties. On January 23, 2009, USTR announced a determination to modify the list of products subject to additional duties by removing some products from the list and adding replacement products, consistent with the WTO's authorization. See 74 FR 4265.

USTR subsequently delayed the additional duties on the replacement products to facilitate negotiations with the EU. On May 13, 2009, the United States and the European Commission announced the signing of a Memorandum of Understanding (MOU) in the EU-Beef case. See 74 FR 40864.

B. The MOU

The MOU provided for the EU to make phased increases in market access by adopting a tariff-rate quota (TRQ) for beef produced without growth-promoting hormones (termed HQB products), in return for the United States making phased reductions in additional duties the United States had imposed consistent with WTO authorization. See 74 FR 40864. Both in accordance with the MOU and as a result of a decision of the United States Court of Appeals for the Federal Circuit, USTR terminated all additional duties on EU products, effective May 2011. See 76 FR 30987.

Under the second phase of the MOU, starting in August 2012, the EU increased the TRQ to 45,000 metric tons (MT). Although the EU has maintained this 45,000 MT TRQ for HQB products, it has not in practice provided benefits to the U.S. beef industry sufficient to compensate for the economic harm resulting from the EU ban on all but specially-produced U.S. beef. In particular, non-U.S. exporters of HQB products have been able to fill a substantial part of the 45,000 MT TRQ.

C. Sections 306 and 307 of the 1974 Trade Act, as Amended

In February 2016, Congress passed and the President signed the Trade Facilitation and Trade Enforcement Act of 2015. Among other things, the Act amended relevant

provisions of the 1974 Trade Act to confirm that the Trade Representative may reinstate a previously terminated Section 301 action in order to exercise a WTO authorization to suspend trade concessions. In particular, the new Section 306(c) of the 1974 Trade Act permits the Trade Representative to reinstate a Section 301 action following (1) a request from the petitioner or any representative of the domestic industry that would benefit from reinstatement of action, (2) consultations under Section 306(d) of the Trade Act, and (3) a review under section 307(c) of the Trade Act.

Section 306(d) of the 1974 Trade Act requires the Trade Representative to consult with the petitioner, if any, involved in the initial investigation and with representatives of the domestic industry concerned, and provide an opportunity for the presentation of views by interested parties. Section 307(c) requires the Trade Representative to conduct a review of the effectiveness of such an action, and of other actions that could be taken (including actions against other products), in achieving the objectives of Section 301 of this title (19 U.S.C. 2411); and the effects of such actions on the United States economy, including consumers.

On December 9, 2016, representatives of the U.S. beef industry invoked the new Section 306(c) of the 1974 Trade Act by filing a written request for reinstatement of action.

D. Request for Public Comments and to Testify at the Hearing

In order to assist in a possible reinstatement of the action in accordance with Section 306(c) of the 1974 Trade Act, and to provide information in connection with a review under Section 307(c) of the Act, the Section 301 Committee seeks public

comments with respect to the specific EU products on the lists in the annexes to this notice. Annex I contains the full list of EU products covered by the ongoing WTO authorization for the United States to suspend tariff concessions and related obligations with respect to the EU. In addition, for convenience, Annex II contains the list of EU products initially subject to increased duties starting in 1999, and in effect in whole or in part until 2011. Annex II is a subset of the full product list in Annex I. In considering a possible reinstatement of the action, the Trade Representative will consider including any product listed in Annex I, regardless of whether that product was covered by the 1999 action.

The Section 301 Committee invites comments with respect to whether particular products should be included on a new list that would be subject to increased duties, as well as the rate of duty that would be best suited to the objective of encouraging a satisfactory resolution of the dispute. The comments should address: (i) whether imposing increased duties on a particular product would be practicable or effective in terms of encouraging a favorable resolution of the dispute, and (ii) whether imposing increased duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

In addition, the Section 301 Committee requests comments on whether actions on particular products should be taken with respect to products of all members of the EU, or whether action should be taken with respect to products of one or more particular EU members. The EU currently has 28 member States: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece,

Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

To be assured of consideration, you must submit written comments by 11:59 pm on January 30, 2017 in accordance with the instructions in section E below.

The Section 301 Committee will convene a public hearing in Rooms 1 and 2, 1724 F Street NW, Washington DC 20508, beginning at 9:30 am on February 15, 2017. Persons wishing to appear at the hearing must provide written notification of their intention and a summary of the proposed testimony by 11:59 pm on January 30, 2017 in accordance with the instructions in section E below. Remarks at the hearing may be no more than five minutes to allow for possible questions from the Section 301 Committee. The deadline for submission of post-hearing rebuttal comments is 11:59 pm February 22, 2017.

Indicate in the “Type Comment” field if you are submitting a request to appear at the hearing, and include the name, address and telephone number of the person presenting the testimony. A summary of the testimony should be attached by using the “Upload File” field. The file name should include who will be presenting the testimony. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the section 301 Committee.

E. Requirements for Submissions

Persons submitting a notification of intent to testify and/or written comments must do so in English and must identify (on the reference line of the first page of the submission) “Request to Reinstate Action Taken in Connection with European Union

Measures Concerning Meat and Meat Products.” In addition, if the submission covers one or more particular products, those products (both tariff number and description) should be listed on the reference line. To be assured of consideration, you must submit written comments, requests to testify and summaries of testimony by 11:59 pm on January 30, 2017. Rebuttal comments are due by 11:59 pm on February 22, 2017.

All submissions must be in English and must be submitted electronically via <http://www.regulations.gov>, using docket number USTR-2016-0025. Hand-delivered submissions will not be accepted.

To make a submission via www.regulations.gov, enter Docket Number USTR–2016–0025 on the home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Find the reference to this notice and click on the button labeled “Comment Now.” For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on “How to Use Regulations.gov” on the bottom of the home page.

The www.regulations.gov website allows users to provide comments by filling in a “Type Comment” field, or by attaching a document using an “Upload File” field. USTR prefers that submissions be provided as an attached document. If a document is attached, it is sufficient to type “see attached” in the “Type Comment” field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf) format. If the submission is in another file format, please indicate the name of the software application in the “Type Comment” field. File names should reflect the name of the person or entity submitting the comments.

Indicate in the “Type Comment” field if you are submitting a request to appear at the hearing, and include the name, address and telephone number of the person presenting the testimony. The file name should include who will be presenting the testimony.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC”. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and would not customarily be released to the public by the submitter. Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments or reply comments.

As noted, USTR strongly urges submitters to file comments through www.regulations.gov. Any alternative arrangements must be made in advance of

submission with Gwendolyn Diggs at (202) 395-3150. General information concerning USTR is available at www.ustr.gov.

Comments will be placed in the docket and open to public inspection, except information granted business confidential status. Comments may be viewed on the www.regulations.gov website by entering the relevant docket number in the search field on the home page.

William L. Busis
Chair, Section 301 Committee

ANNEX I

EU-Beef: List of Products under Consideration for the Imposition of Increased Duties

The products listed below are under consideration for the imposition of increased duties in accordance with the WTO DSB authorization in the EU-Beef dispute. In particular, increased tariffs may be applied to articles that are: (i) classified in the numerical headings and subheadings of the HTS listed below; and, (ii) products of one or more of the member States of the EU. In the instances where a 4-digit HTS heading appears in the left column of this list, products classified in any of the 8-digit subheadings in the HTS under those 4-digit headings may be subject to increased duties. In all cases, the tariff nomenclatures in the HTS for the headings and subheadings listed below are definitive; the product descriptions in this list are for information purposes only. The descriptions below are not intended to delimit in any way the scope of the products that would be subject to increased duties. An asterisk (*) indicates a change in the HTS number and/or product description since the previous publication of this list. See 73 FR 66071-66074.

HTS	Description
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
0203	Meat of swine (pork), fresh, chilled or frozen
0206	Edible offal of bovine animals, swine, sheep, goats, horses, or mules, fresh, chilled or frozen
0207	Meat and edible offal of poultry (chickens, ducks, geese, turkeys and guineas), fresh, chilled or frozen
02101100	Hams, shoulders and cuts thereof with bone in, salted, in brine, dried or smoked
02101200	Bellies (streaky) and cuts thereof of swine, salted, in brine, dried or smoked
02102000	Meat of bovine animals, salted, in brine, dried or smoked
02109920	Meat and edible offal of poultry (chickens, ducks, geese, turkeys and guineas), salted, in brine, dried or smoked; flour and meal of these animals
02109991*	Meat and edible offal nesoi, salted, in brine, dried or smoked; flour and meal thereof
04064020	Roquefort cheese in original loaves
04064040	Roquefort cheese, other than in original loaves, not grated or powdered, not processed

HTS	Description
05040000	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked
06039000	Cut flowers and flower buds, suitable for bouquets or ornamental purposes, dried, dyed, bleached impregnated or otherwise prepared
06042000*	Foliage, branches and other parts of plants without flowers or flower buds, and grasses, suitable for bouquets or ornamental purposes, fresh
06049030*	Foliage, branches, parts of plants without flowers or buds, and grasses, suitable for bouquets or ornamental purposes, dried or bleached
07020020	Tomatoes, fresh or chilled, entered during March 1 to July 14, inclusive, or during September 1 to November 14, inclusive, in any year
07020040	Tomatoes, fresh or chilled, entered from July 15 through August 31 in any year
07020060	Tomatoes, fresh or chilled, entered from November 15 to the last day of February, inclusive, of the following year
07031040	Onions, other than onion sets or pearl onions not over 16 mm in diameter, and shallots, fresh or chilled
07095910	Truffles, fresh or chilled
07129010	Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared
07129074	Dried tomatoes, in powder
07129078	Dried tomatoes, whole, cut, sliced or broken, but not further prepared
08024100*	Chestnuts, fresh or dried, in shell*
08024200*	Chestnuts, fresh or dried, shelled*
09042120*	Paprika, dried, neither crushed nor ground*
09042220*	Paprika, crushed or ground*
10041000*	Oats, seed*
10049000*	Oats, other than seed*
11041200	Rolled or flaked grains of oats
11042200	Grains of oats, hulled, pearled, clipped, sliced, kibbled or otherwise worked, but not rolled or flaked
15050090	Fatty substances derived from wool grease (including lanolin)
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products
16021000	Homogenized preparations of meat, meat offal or blood, other than sausages and similar products
16022020	Prepared or preserved liver of goose
16022040	Prepared or preserved liver of any animal other than of goose

HTS	Description
16023100	Prepared or preserved meat or meat offal of turkeys, other than sausages and similar products
16023200	Prepared or preserved meat or meat offal of chickens, other than sausages and similar products
16023900	Prepared or preserved meat or meat offal of ducks, geese or guineas, other than sausages and similar products
16024110	Prepared or preserved pork ham and cuts thereof, containing cereals or vegetables
16024120	Pork hams and cuts thereof, not containing cereals or vegetables, boned and cooked and packed in airtight containers
16024190	Prepared or preserved pork hams and cuts thereof, not containing cereals or vegetables, other than boned and cooked and packed in airtight containers
16024220	Pork shoulders and cuts thereof, boned and cooked and packed in airtight containers
16024240	Prepared or preserved pork shoulders and cuts thereof, other than boned and cooked and packed in airtight containers
16024910	Prepared or preserved pork offal, including mixtures
16024920	Pork other than hams, shoulders or cuts thereof, not containing cereals or vegetables, boned and cooked and packed in airtight containers
16024940	Prepared or preserved pork, not containing cereals or vegetables, nesoi
16024960	Prepared or preserved pork mixed with beef
16024990	Prepared or preserved pork, nesoi
16025005	Prepared or preserved offal of bovine animals
16025009	Prepared or preserved meat of bovine animals, cured or pickled, not containing cereals or vegetables
16025010	Corned beef in airtight containers
16025020	Prepared or preserved beef in airtight containers, other than corned beef, not containing cereals or vegetables, not cured or pickled
16025060	Prepared or preserved meat of bovine animals, not containing cereals or vegetables, not in airtight containers
16025090	Prepared or preserved meat of bovine animals, containing cereals or vegetables
17041000	Chewing gum, whether or not sugar-coated
17049025	Sugar confectionary cough drops
18063100	Chocolate and other cocoa preparations, in blocks, slabs or bars, filled, weighing not more than 2 kg
19054000	Rusks, toasted bread and similar toasted products

HTS	Description
20021000	Tomatoes, whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid
20029040	Tomatoes, in powder
20029080	Tomatoes, other than whole or in pieces and other than in powder (including paste and puree), prepared or preserved otherwise than by vinegar or acetic acid
20079905	Lingonberry and raspberry jams obtained by cooking
20083042	Satsumas, prepared or preserved, in airtight containers, aggregate quantity not over 40,000 metric tons/calendar year
20083046	Satsumas, prepared or preserved, in airtight containers, aggregate quantity over 40,000 metric tons/calendar year
20084000	Pears, otherwise prepared or preserved, nesoi
20087020	Peaches (excluding nectarines), otherwise prepared or preserved, nesoi
20096100	Grape juice (including grape must), of a Brix value not exceeding 30
20096900	Grape juice (including grape must), of a Brix value exceeding 30
20098100*	Cranberry juice, concentrated or not concentrated*
20098960*	Juice of any single fruit, nesi, (including cherries and berries), concentrated or not concentrated*
20099040	Mixtures of fruit juices, or mixtures of vegetable and fruit juices
21013000	Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof
21033040	Prepared mustard
21041000	Soups and broths and preparations therefor
22011000	Mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavored
23099010	Mixed feed or mixed feed ingredients of a kind used in animal feeding
35061050	Products suitable for use as glues or adhesives, put up for retail sale, not exceeding 1 kg, including fish glue but not other animal glue
55041000	Viscose rayon staple fibers, not carded, combed or otherwise processed for spinning
55101100	Single yarn (other than sewing thread) containing 85% or more by weight of artificial staple fibers, not put up for retail sale

HTS	Description
85102010	Hair clippers, with self-contained electric motor, to be used for agricultural or horticultural purposes
85102090	Hair clippers, with self-contained electric motor, other than those to be used for agricultural or horticultural purposes
87112000	Motorcycles (incl. mopeds) and cycles, fitted with reciprocating internal-combustion piston engine with cylinder capacity of over 50 cc but not over 250 cc
87113000	Motorcycles (incl. mopeds) and cycles, fitted with reciprocating internal-combustion piston engine with cylinder capacity of over 250 cc but not over 500 cc

ANNEX II

EU-Beef: List of Products Initially Subject to Increased Duties

Annex II contains the list of EU products initially subject to increased duties starting in 1999, and in effect in whole or in part until 2011. Annex II is a subset of the full product list in Annex I.

Products of Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden:

HTS	Description
0201	Meat of bovine animals, fresh or chilled
0202	Meat of bovine animals, frozen
02031100	Pork carcasses and half-carcasses, fresh or chilled
02031210	Pork hams and shoulders and cuts thereof, fresh or chilled, with bone in, processed
02031290	Pork hams and shoulders and cuts thereof, fresh or chilled, with bone in, not processed
02031920	Meat of swine (pork), fresh or chilled, other, processed
02031940	Meat of swine (pork), fresh or chilled, other
02032100	Pork carcasses and half-carcasses, frozen
02032210	Pork hams and shoulders and cuts thereof, frozen, with bone in, processed
02032290	Pork hams and shoulders and cuts thereof, frozen, with bone in, not processed
02061000	Bovine tongues, fresh or chilled
02062100	Bovine tongues, frozen
02062200	Bovine livers, frozen
02062900	Edible offal of bovine animals, frozen, other than tongues or livers
04064020	Roquefort cheese in original loaves

04064040	Roquefort cheese, other than in original loaves, not grated or powdered, not processed
07031040	Onions, other than onion sets or pearl onions not over 16 mm in diameter, and shallots, fresh or chilled
07095910	Truffles, fresh or chilled
07129010	Dried carrots, whole, cut, sliced, broken or in powder, but not further prepared
16022020	Prepared or preserved liver of goose
16022040	Prepared or preserved liver of any animal other than of goose
19054000	Rusks, toasted bread and similar toasted products
20098060	Juice of any single fruit, (including cherries and berries), concentrated or not concentrated, other than citrus, pineapple, tomato, grape, apple, pear, or prune juices
21013000	Roasted chicory and other roasted coffee substitutes and extracts, essences and concentrates thereof
21033040	Prepared mustard

Products of France, the Federal Republic of Germany, or Italy:

20021000	Tomatoes, whole or in pieces, prepared or preserved otherwise than by vinegar or acetic acid
----------	--

P

Products of France or the Federal Republic of Germany:

05040000	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked
21041000	Soups and broths and preparations therefor
55101100	Yarn (other than sewing thread) containing 85% or more by weight of artificial staple fibers, singles, not put up for retail sale

Products of France:

02101100	Hams, shoulders and cuts thereof with bone in, salted, in brine, dried or smoked
15050090	Fatty substances derived from wool grease (including lanolin)
18063100	Chocolate and other cocoa preparations, in blocks, slabs or bars, filled, weighing not more than 2 kg
20079905	Lingonberry and raspberry jams obtained by cooking
35061050	Products suitable for use as glues or adhesives, put up for retail sale, not exceeding 1 kg, including fish glue, but not other animal glue

[FR Doc. 2016-31352 Filed: 12/27/2016 8:45 am; Publication Date: 12/28/2016]